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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

KRISTIN K. MAYES, Chairman  
GARY PIERCE  
PAUL NEWMAN  
SANDRA D. KENNEDY  
BOB STUMP

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ARIZONA CORPORATION COMMISSION  
DOCKET CONTROL

In the matter of:

DOCKET NO. S-20660A-09-0107

RADICAL BUNNY, L.L.C., an Arizona  
limited liability company,

**SECURITIES DIVISION'S RESPONSE TO  
MOTION FOR CONTINUANCE**

HORIZON PARTNERS, L.L.C., an Arizona  
limited liability company,

TOM HIRSCH (aka TOMAS N. HIRSCH)  
and DIANE ROSE HIRSCH, husband and  
wife,

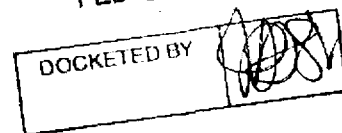
BERTA FRIEDMAN. WALDER (aka  
BUNNY WALDER), a married person,

HOWARD EVAN WALDER, a married  
person,

HARISH PANNALAL SHAH and  
MADHAVI H. SHAH, husband and wife,

Respondents.

Arizona Corporation Commission  
**DOCKETED**  
FEB 10 2010



The Securities Division ("Division") of the Arizona Corporation Commission hereby responds to the Motion for Continuance filed on February 8, 2010 on behalf of Respondents Tom Hirsch, Berta Friedman Walder, Howard Evan Walder, and Harish Pannalal Shah ("Motion for Continuance") as follows:

1. On March 12, 2009, the Division filed a Notice of Opportunity for Hearing against Radical Bunny, L.L.C., Horizon Partners, L.L.C., Tom Hirsch, Berta Friedman Walder, Howard Evan Walder, and Harish Pannalal Shah alleging multiple violations of the Arizona Securities Act in connection with the offer and sale of securities in the form of notes and investment contracts

1 (“Notice”). The Notice also included Respondents Diane Rose Hirsch and Madhavi H. Shah for  
2 purposes of determining the liability of the respective marital communities of Tom Hirsch and  
3 Diane Rose Hirsch, husband and wife, and Harish Pannalal Shah and Madhavi H. Shah, husband  
4 and wife.

5 2. On March 26, 2009, a request for hearing was filed by the firm of Heurlin Sherlock  
6 Panahi, Bruce R. Heurlin, (“Bruce R. Heurlin”) on behalf of Respondents Horizon Partners, LLC,  
7 Tom Hirsch, Diane Rose Hirsch, Berta Friedman Walder, Howard Evan Walder, Harish Pannalal  
8 Shah and Madhavi H. Shah (“Respondents”).

9 3. Respondent Radical Bunny, LLC has not requested a hearing or filed an answer in  
10 this matter.

11 4. On July 16, 2009, the Division provided the Respondents with its preliminary  
12 exhibits and witness list.

13 5. Although not required by procedural order, on August 12, 2009, the Division  
14 provided a copy of the transcripts of the sworn testimony of its non-party attorney witnesses to  
15 Respondents.

16 6. On August 17, 2009, Respondents provided the Division with their preliminary  
17 exhibits and witness list. Respondents provided a supplement to their preliminary exhibits and  
18 witness list on August 19, 2009.

19 7. On August 17, 2009, the Respondents provided the Division with their Stipulations  
20 and Objections to the Securities Division’s Preliminary List of Witnesses and Exhibits.

21 8. On November 3, 2009, a procedural conference was held to discuss procedural  
22 issues, including hearing dates. Approximately three months had elapsed since the parties  
23 exchanged their respective exhibits and witness lists and provided stipulations and additional  
24 information without any attempt by Respondents to either narrow the issues in this matter by  
25 dispositive motion<sup>1</sup> or to seek discovery.<sup>2</sup> Furthermore, the Respondents agreed to the setting of

26 <sup>1</sup> See, A.A.C. R14-3-106(K).

<sup>2</sup> See, A.R.S. § 41-1062.

1 the motion deadline date.

2 9. On November 3, 2009, by Procedural Order, an administrative hearing was  
3 scheduled to commence on March 8, 2010 (to be held on each day of that week and additional  
4 days to be scheduled as available). The Procedural Order also required that all motions be filed no  
5 later than February 9, 2010.

6 10. On February 8, 2010, a Stipulation and Motion seeking to substitute the firm of  
7 LaVelle & LaVelle, PLC, Michael J. LaVelle and Matthew K. LaVelle, in place of Bruce R.  
8 Heurlin as counsel for Respondents Tom Hirsch, Berta Friedman Walder, Howard Evan Walder,  
9 and Harish Pannalal Shah *only* ("Stipulation and Motion") was filed. No ruling has been issued  
10 on the Stipulation and Motion.

11 11. The Stipulation and Motion does not address Respondents Horizon Partners, LLC,  
12 Diane Rose Hirsch, and Madhavi H. Shah, and no motion to withdraw has been filed by Bruce R.  
13 Heurlin with regard to these Respondents.

14 12. A motion for continuance of the administrative hearing has not been filed on behalf  
15 of Respondents Horizon Partners, LLC, Diane Rose Hirsch, and Madhavi H. Shah.

16 13. The Division objects to the Motion for Continuance on the grounds that less than all  
17 Respondents have requested the continuance of the administrative hearing and/or an extension of  
18 the motion deadline date, and the remaining parties and/or their witnesses may be prejudiced or  
19 unreasonably burdened by any further delay in these proceedings.


20 14. The Division further objects to any extension of the motion deadline date because  
21 approximately *six* months has elapsed since the parties exchanged their respective exhibits and  
22 witness lists and provided stipulations and additional information without any attempt by  
23 Respondents to either narrow the issues in this matter by dispositive motion or to seek discovery.  
24 Furthermore, no just cause has been articulated in the Motion for Continuance for the extension of  
25 the motion deadline date other than the fact that four of the Respondents have chosen to obtain  
26 new counsel one day prior to the existing motion deadline date and thirty days prior to the

1 scheduled administrative hearing.

2 15. Should the Motion for Continuance be granted in its entirety, the Division  
3 respectfully requests that the procedural order (a) set a motion deadline date of March 15, 2010 be  
4 to be applicable to all dispositive motions and motions requesting discovery, (b) in the event that a  
5 motion for deposition is granted, all depositions to be completed by April 30, 2010. These  
6 proposed dates should allow sufficient time for Respondents to file any motions, the Division to  
7 timely respond in accordance with applicable briefing schedules, a hearing to be held, a ruling  
8 issued, and for the parties to comply with the resulting rulings, if necessary, without the potential  
9 for any party or witness to be required to address such matters on the eve of an administrative  
10 hearing. The Division further requests that an administrative hearing be scheduled to begin on the  
11 first available date after June 1, 2010.

12 16. The Division does not intend for a motion deadline date to apply to motions to  
13 allow telephonic testimony at the administrative hearing or motions to limit or exclude evidence.

14 RESPECTFULLY SUBMITTED this 10<sup>th</sup> day of February, 2010.

15   
16 Julie Coleman  
17 Chief Counsel of Enforcement for the Securities  
Division of the Arizona Corporation Commission

18 ORIGINAL and 13 copies of the foregoing  
19 filed this 10<sup>th</sup> day of February, 2010 with:

20 Docket Control  
21 Arizona Corporation Commission  
22 1200 W. Washington St.  
Phoenix, AZ 85007

23 COPY of the foregoing hand-delivered  
this 10<sup>th</sup> day of February, 2010, to:

24 Lyn Farmer  
25 Administrative Law Judge  
26 Arizona Corporation Commission  
1200 W. Washington St.  
Phoenix, AZ 85007

1 COPY of the foregoing mailed  
2 this 10<sup>th</sup> day of February, 2010 to:

3 Bruce R. Heurlin  
4 HEURLIN SHERLOCK PANAH  
5 1636 N. Swan Road, Suite 200  
6 Tucson, AZ 85712-4096

7 Michael J. LaVelle  
8 Matthew K. LaVelle  
9 LAVELLE & LAVELLE, PLC  
10 2525 E. Camelback Road, Suite 888  
11 Phoenix, AZ 85016

12 By: Karen Houde